

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Equal Employment Opportunity Commission,

Plaintiff,

v.

Case No. 1:17-cv-00070-WCG

Wal-Mart Stores East, LP,

Defendant.

**DEFENDANT WAL-MART STORES EAST, LP'S MOTION
TO STAY ENFORCEMENT OF JUDGMENT UNDER RULE 62(b)
AND FOR APPROVAL OF UNOPPOSED APPEAL BOND**

Defendant Wal-Mart Stores East, LP (“Walmart”), pursuant to Federal Rule of Civil Procedure 62(b), respectfully moves for: (1) a stay of enforcement of this Court’s judgment pending resolution of Walmart’s forthcoming appeal of that judgment to the U.S. Court of Appeals for the Seventh Circuit and, if necessary, the Supreme Court thereafter; and (2) approval of Walmart’s appeal bond in the amount of \$448,107.28, a copy of which bond Walmart attaches as **Exhibit A** to this Motion. Counsel for Walmart has conferred with Counsel for Plaintiff the Equal Employment Opportunity Commission (“EEOC”) regarding Walmart’s appeal bond to stay this Court’s judgment pending appeal. Counsel for the EEOC informed Counsel for Walmart that the bond is acceptable to EEOC at this time; however, if EEOC prevails on appeal, EEOC intends to seek additional post-judgment interest. In further support of this Motion, Walmart states as follows:

1. On March 22, 2022, this Court entered a final judgment “in favor of Plaintiff Equal Employment Opportunity Commission and against Walmart Stores East LP, awarding Marlo Spaeth \$150,000.00 in compensatory damages, \$150,000.00 in punitive damages, \$44,757.80 in

backpay, \$5,978.63 in prejudgment interest, and \$68,926.16 for tax consequences, for a total award in the amount of \$419,662.59.” Dkt.274. The Court’s judgment further ordered that “Walmart must reinstate Marlo Spaeth as a Walmart employee at a rate of pay of \$14.90 per hour” and that “Walmart shall also consult with Marlo Spaeth’s guardian regarding any need for discipline or accommodations while she continues her employment.” Dkt.274.

2. On November 7, 2022, this Court entered a Decision And Order denying Walmart’s Renewed Motion For Judgment As A Matter Of Law Under Rule 50 And Motion For A New Trial Under Rule 59 And To Remit Damages. Dkt.283.

3. On November 21, 2022, the EEOC submitted a Bill Of Costs to this Court for \$28,444.69. Dkt.284.

4. Federal Rule of Civil Procedure 62(a) provides that “execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise.” Rule 62(b), in turn, provides that, “[a]t any time after judgment is entered, a party may obtain a stay by providing a bond or other security,” and “[t]he stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.”

5. Walmart intends to timely appeal this Court’s March 22, 2022 final judgment, as well as all earlier and interlocutory orders and rulings, to the Seventh Circuit and, if necessary, to the Supreme Court thereafter.

6. Accordingly, Walmart now moves for a stay of the execution of this Court’s judgment under Rule 62(b) until its appeal is fully resolved by the federal appellate courts. In support of this stay, Walmart submits with this Motion its appeal bond obtained from Travelers Casualty and Surety Company of America, valued at \$448,107.28. Ex.A at 1. The \$448,107.28 value of this

bond is the sum of the \$419,662.59 from the Court's judgment and the EEOC's \$28,444.69 of costs in the EEOC's Bill Of Costs.

7. Counsel for Walmart has conferred with Counsel for the EEOC regarding Walmart's appeal bond to stay this Court's judgment pending appeal. Counsel for the EEOC informed Counsel for Walmart that the bond is acceptable to EEOC at this time; however, if EEOC prevails on appeal, EEOC intends to seek additional post-judgment interest.

For the foregoing reasons, Walmart respectfully requests that this Court grant this Motion and: (1) stay enforcement of this Court's judgment under Rule 62(b), pending resolution of Walmart's forthcoming appeal of that judgment to the U.S. Court of Appeals for the Seventh Circuit and, if necessary, the Supreme Court thereafter; and (2) approve Walmart's appeal bond.

Dated, December 6, 2022

Respectfully submitted,

GEORGE BURNETT
CONWAY, OLEJNICZAK & JERRY, S.C.
231 South Adams Street
Green Bay, WI 54301
(920) 437-0476
(920) 437-2868 (fax)
gb@lcojlaw.com

/s/Misha Tseytlin
MISHA TSEYTLIN
TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W. Monroe Street, Suite 3900
Chicago, IL 60606
(608) 999-1240
(312) 759-1939 (fax)
misha.tseytlin@troutman.com

Counsel for Wal-Mart Stores East, LP

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December 2022, a true and accurate copy of the foregoing was served via the Court's CM/ECF system upon all counsel of record.

/s/ Misha Tseytlin

MISHA TSEYTLIN
TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W. Monroe Street
Suite 3900
Chicago, IL 60606
(608) 999-1240
(312) 759-1939 (fax)
misha.tseytlin@troutman.com